

§ 95.4

(f) The unavailability of a mandatory patent license may result in a substantial lessening of competition or a tendency to create a monopoly in any line of commerce in any section of the United States.

§ 95.4 Limitations on mandatory licenses

(a) If the Administrator, or the Administrator's designee, decides to apply to the Attorney General for a mandatory patent license in accordance with § 95.3, the application shall include a proposed patent license with the following limitations:

(1) The scope and duration of the patent license shall be limited to that necessary to permit the proposed licensee to comply with the requirements the Act;

(2) The patent license shall be non-exclusive;

(3) The patent license shall be non-signable, except with that part of the enterprise or goodwill that enjoys the license;

(4) The patent license shall be for use of the licensed technology in the United States only;

(5) The patent license shall extend only to those uses necessary to enable the licensee to comply with sections 111, 112 or 202 of the Act (42 U.S.C. 7411, 7412 or 7521);

(6) The patent license shall provide for termination, subject to adequate protections of the legitimate interests of the licensed party, when the circumstances that made the compulsory patent license necessary cease to exist and are unlikely to recur; and

(7) The patent license shall provide for adequate remuneration that takes into account the economic value of the license.

(b) The Administrator, or the Administrator's designee, may decide as appropriate to include additional conditions, terms or limitations on the scope of the patent license for which application is made to the Attorney General.

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